

Fletcher Hartwell Hyler, in propria persona
Sheryl Root Hyler, in propria persona
3130 Alpine Road, Suite 288
Portola Valley, CA 94028
(650)234-8160
budh@logmkt.com

FILED
JUL 29 AM 9:03
RICHARD W. WILKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FLETCHER HARTWELL HYLER AND
SHERYL ROOT HYLER,
Plaintiff,

vs.

INVESTMENT GRADE LOANS, INC., ET
AL.,
Defendant

Case No.: A07-CV-03180 WHA

CORRECTED EXHIBIT "I" TO
REQUEST FOR TAKING OF JUDICIAL
NOTICE IN SUPPORT OF PLAINTIFF'S
F.R.C.P. 60(b)(3) MOTION TO SET
ASIDE JUDGMENT AND SETTLEMENT
AGREEMENT FRAUD,
MISREPRESENTATION AND
MISCONDUCT BY OPPOSING PARTY

DATE: August 28, 2008
TIME: 8:00 A.M.
DEPT.: 9

COME NOW Plaintiffs Fletcher Hartwell Hyler and Sheryl Root Hyler, and, pursuant to Federal Rule of Evidence § 201, hereby request that this Court take judicial notice of the following documents, true and correct copies of which are attached hereto as Exhibits:

I. Stipulation and Agreement dated August 3, 2007 (signed July 1, 2007) in the Matter of the Accusation of Gary A. Bowers, and Andrew A. Lewis.

Due to a clerical or equipment error, page 3 of Exhibit I to the original **REQUEST FOR TAKING OF JUDICIAL NOTICE IN SUPPORT OF PLAINTIFF'S F.R.C.P. 60(b)(3) MOTION TO SET ASIDE JUDGMENT AND SETTLEMENT AGREEMENT FRAUD, MISREPRESENTATION AND MISCONDUCT BY OPPOSING PARTY**, filed with this

PLAINTIFF'S F.R.C.P. 60 (b)(3) MOTION TO SET ASIDE
JUDGMENT AND SETTLEMENT AGREEMENT FOR
FRAUD, MISREPRESENTATION AND MISCONDUCT
BY OPPOSING PARTY

1 Court in the above-captioned matter on July 22, 2008, photocopied as a blank page. Plaintiffs
2 hereby request that the copy attached hereto be substituted for the original Exhibit "I".
3

4 Dated: 7/29/08

Fletcher H. Hyler

Fletcher Hartwell Hyler

EXHIBIT I

AUG 03 2007

By S. E. J.

★ ★ ★

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA), shall instead and in place

ANDREW A. LEWIS

1 thereof be submitted solely on the basis of the provisions of
2 this Stipulation and Agreement.

3 2. Respondent has received, read and understands the
4 Statement to Respondent, the Discovery Provisions of the APA
5 and the Accusation filed by the Department of Real Estate in
6 this proceeding.

7 3. On November 1, 2006, Respondent filed a Notice of
8 Defense pursuant to Section 11505 of the Government Code for
9 the purpose of requesting a hearing on the allegations in the
10 Accusation. Respondent hereby freely and voluntarily withdraws
11 said Notice of Defense. Respondent acknowledges that
12 Respondent understands that by withdrawing said Notice of
13 Defense Respondent will thereby waive Respondent's right to
14 require the Commissioner to prove the allegations in the
15 Accusation at a contested hearing held in accordance with the
16 provisions of the APA and that Respondent will waive other
17 rights afforded to Respondent in connection with the hearing
18 such as the right to present evidence in defense of the
19 allegations in the Accusation and the right to cross-examine
20 witnesses.

21 4. Respondent, pursuant to the limitations set forth
22 below, hereby admits that the factual allegations in the
23 Accusation pertaining to Respondent are true and correct and
24 stipulates and agrees that the Real Estate Commissioner shall
25 not be required to provide further evidence of such
26 allegations.

27 5. It is understood by the parties that the Real

1 Estate Commissioner may adopt the Stipulation and Agreement as
2 his decision in this matter, thereby imposing the penalty and
3 sanctions on Respondent's real estate license and license
4 rights as set forth in the "Order" below. In the event that
5 the Commissioner in his discretion does not adopt the
6 Stipulation and Agreement, it shall be void and of no effect,
7 and Respondent shall retain the right to a hearing and
8 proceeding on the Accusation under all the provisions of the
9 APA and shall not be bound by any admission or waiver made
10 herein.

11 6. This Stipulation and Agreement shall not
12 constitute an estoppel, merger or bar to any further
13 administrative or civil proceedings by the Department of Real
14 Estate with respect to any matters which were not specifically
15 alleged to be causes for accusation in this proceeding.

16 DETERMINATION OF ISSUES

17 By reason of the foregoing stipulations, admissions
18 and waivers and solely for the purpose of settlement of the
19 pending Accusation without hearing, it is stipulated and agreed
20 that the following Determination of Issues shall be made:

21 I

22 The acts and omissions of Respondent ANDREW A. LEWIS
23 described in the Accusation are grounds for the suspension or
24 revocation of the licenses and license rights of Respondent
25 under the provisions of Sections 4975 subsection (a)(1), (a)(2)
26 and (c) of the Financial Code and Section 10176(i), 10177(j)
27 and 10177(g) of the Business and Professions Code.

H-9724 SF

ANDREW A. LEWIS

ORDER

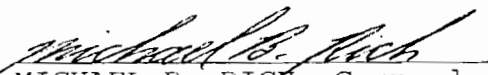
I

A. All licenses and licensing rights of Respondent ANDREW A. LEWIS under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Decision; provided, however, that sixty (60) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

1. Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and

2. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years of the effective date of this Decision. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

July 11, 2007
DATED


MICHAEL B. RICH, Counsel
Department of Real Estate


* * *

I have read the Stipulation and Agreement and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the

H-9724 SF

ANDREW A. LEWIS

1 California Administrative Procedure Act (including but not
2 limited to Sections 11506, 11508, 11509, and 11513 of the
3 Government Code), and I willingly, intelligently, and
4 voluntarily waive those rights, including the right of requiring
5 the Commissioner to prove the allegations in the Accusation at a
6 hearing at which I would have the right to cross-examine
7 witnesses against me and to present evidence in defense and
8 mitigation of the charges.

9
10 7/6/07
11 DATED
12
13 
14 ANDREW A. LEWIS
15 Respondent

16 * * *

17 The foregoing Stipulation and Agreement is hereby
18 adopted by me as my Decision in this matter as to Respondent
19 ANDREW A. LEWIS and shall become effective at 12 o'clock noon on
20 AUG 23, 2007.

21 IT IS SO ORDERED 7-26, 2007.

22 JEFF DAVI
23 Real Estate Commissioner

24 
25
26
27